

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
ENTERED

FEB 8 2005

Michael M. Milby, Clerk of Court

EDWARD R. NEWSOME,
TDCJ-ID # 437698,

Petitioner,

v.

DOUGLAS DRETKE,

Respondent.

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CIVIL ACTION NO. H-04-3233

MEMORANDUM AND ORDER

Petitioner Edward R. Newsome, a state inmate incarcerated in the Texas Department of Criminal Justice – Correctional Institutions Division, filed this habeas corpus petition, proceeding as a pauper under 28 U.S.C. § 1915. Newsome claims that counsel was ineffective and the arresting officer committed perjury at his state felony trial in 1986. His prior lawsuits raising these ineffective assistance and perjury claims were dismissed as frivolous. *See, e.g., Newsome v. Harris County Jail Director*, C.A. No. H-02-3192 (S.D. Tex. 2002); *Newsome v. Mewis*, C.A. No. H-02-1234 (S.D. Tex. 2002). This is at least Newsome’s fifth habeas challenge to his 1986 conviction, and is successive as to those claims. *See Newsome v. Harris County Director*, C.A. No. H-04-3247 (S.D. Tex. 2004). There is no allegation or showing that Newsome has sought or received authorization from the court of appeals to proceed with this petition, as required by 28 U.S.C. § 2244(b)(3). Accordingly, his habeas claims arising from his 1986 conviction are dismissed for want of jurisdiction.

Newsome also claims that his parole was illegally revoked in 2004. Within his petition, Newsome admits that his challenges to that revocation are pending in the Texas Court of Criminal Appeals. Thus, Newsome has not exhausted his state court remedies, and his claim of illegal parole revocation is dismissed for non-exhaustion.

A certificate of appealability from a habeas corpus proceeding will not issue because Newsome has not made a substantial showing that reasonable jurists would find the Court's procedural or substantive rulings debatable. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Beasley v. Johnson*, 242 F.3d 248, 263 (5th Cir. 2001).

Petitioner's action is **DISMISSED**. The motion to proceed *in forma pauperis* (Docket Entry No. 2) is **DENIED**.

The Clerk will provide a copy of this order to the parties.

Signed at Houston, Texas, on 4 February, 2005.



KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE